

DECISIONS PER CURIAM, ETC., FROM JANUARY
17, 1939, THROUGH APRIL 17, 1939.*

No. 552. *ARROW DISTILLERIES, INC. v. ALEXANDER, ADMINISTRATOR OF THE FEDERAL ALCOHOL ADMINISTRATION*. Appeal from the District Court of the United States for the District of Columbia. January 30, 1939. *Per Curiam*: Motion of the appellee to affirm granted and order denying an interlocutory injunction affirmed. *Alabama v. United States*, 279 U. S. 229, 231; *United Gas Co. v. Public Service Comm'n*, 278 U. S. 322, 326; *National Fire Insurance Co. v. Thompson*, 281 U. S. 331, 338; *Eureka Productions, Inc. v. Lehman*, 302 U. S. 634. *Mr. Horace J. Donnelly, Jr.* for appellant. *Solicitor General Jackson* for appellee. Reported below: 24 F. Supp. 880.

No. —, original. *EX PARTE CLARENCE M. BRUMMETT*. January 30, 1939. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE SOLOMON G. SALOMON*. January 30, 1939. Motion for leave to file petition for writ of mandamus denied. The CHIEF JUSTICE took no part in the consideration and decision of this application.

No.—, original. *EX PARTE FORREST HOLIDAY*. January 30, 1939. Motion for leave to file petition for writ of habeas corpus denied.

* For decisions on applications for certiorari, see *post*, pp. 622, 630; on petitions for rehearing, p. 666.

No. —. *EX PARTE JOSEPH PORESKY*. January 30, 1939. Motion for interlocutory decree and amendment denied.

No. 192. *CASWELL v. MORGENTHAU, SECRETARY OF THE TREASURY, ET AL.* January 30, 1939. Motion for leave to file a petition for rehearing denied. 305 U. S. 596.

No. 539. *SOCIETE SUISSE POUR VALEURS DE METAUX v. CUMMINGS, ATTORNEY GENERAL, ET AL.* January 30, 1939. Motion to substitute granted and Frank Murphy, present Attorney General of the United States, is substituted as a party respondent in the place and stead of Homer S. Cummings, resigned. Mr. JUSTICE STONE took no part in the consideration and decision of this motion.

No. 489. *EASTERN SHORE PUBLIC SERVICE CO. ET AL. v. SEAFORD*. Appeal from the Supreme Court of Delaware. February 6, 1939. *Per Curiam*: The appeal is dismissed for the want of a properly presented substantial federal question. *New Orleans Waterworks Co. v. Louisiana*, 185 U. S. 336, 344, 345; *New Orleans Waterworks Co. v. Louisiana Sugar Refining Co.*, 125 U. S. 18, 30; *Seattle & Renton Ry. Co. v. Linhoff*, 231 U. S. 568, 570; *Long Sault Development Co. v. Call*, 242 U. S. 272, 277. Petition for writ of certiorari denied. Mr. *Daniel O. Hastings* for appellants. Mr. *James R. Morford* for appellee. Reported below: 2 A. 2d 265.

No. —, original. *EX PARTE MIKE HOLCHAK*. Argued January 30, 1939. Decided February 6, 1939. Motion for leave to file petition for writ of habeas corpus denied and rule to show cause discharged.

306 U. S.

Decisions Per Curiam, Etc.

Mr. Frank J. Wideman, with whom *Mr. Raymond Sparks* was on the brief, for petitioner. *Mr. Earl Warren*, Attorney General of California, with whom *Mr. William F. Cleary* was on the brief, submitted for Smith, Warden, respondent.

No. —, original. *EX PARTE J. L. STEWART*. February 13, 1939. Motion for leave to file petition for writ of habeas corpus denied.

No. 643. *SIMMONS v. BOARD OF EDUCATION ET AL.* Appeal from the District Court of the United States for the Eastern District of Oklahoma. February 27, 1939. *Per Curiam*: Motion to dismiss on the ground that the cause has become moot denied. Motion to affirm granted upon the ground that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument. Rule 7, par. 4. The judgment is affirmed. *Mr. Charles A. Chandler* for appellant. *Messrs. Mac Q. Williamson* and *Ezra Brainerd, Jr.* for appellees.

No. —, original. *EX PARTE ALBERT LEIGHTON*. February 27, 1939. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE JOSEPH J. O'BRIEN*. February 27, 1939. Motions for leave to file petitions for writs of habeas corpus and mandamus denied.

No. —, original. *EX PARTE PATRIOTIC SOCIETY OF UNEMPLOYED PERSONS OF THE UNITED STATES*. March 6, 1939. Motion for leave to file petition for writ of mandamus denied.

No. 127. *MACKAY RADIO & TELEGRAPH CO. v. RADIO CORPORATION OF AMERICA*. March 6, 1939. Ordered that the opinion in this case be modified by substituting for the last five lines of the third paragraph on page 8, the following: "to wire lengths not multiples of half wave lengths, must fail, because such structures are not within the invention described in the application."

And by striking from the third line on page 11 of the opinion the words "the angle of."

And by striking from the opinion the full sentence beginning in the fourth line on page 11.

The petition for rehearing is denied.

Reported as amended, *ante*, p. 86.

No. 515. *LIFSON, ADMINISTRATOR, ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. March 6, 1939. Motion for leave to file petition for rehearing denied. 305 U. S. 662.

No. —. *PORESKY v. ELY, GOVERNOR, ET AL.* March 13, 1939. Application denied.

No. 312. *TAYLOR ET AL., INDEPENDENT COMMITTEE, v. STANDARD GAS & ELECTRIC CO. ET AL.* March 13, 1939. The opinion of the Court announced February 27, 1939, is amended in the following particulars:

In the next to the last line, and the last line, of the first full paragraph on page 4 the words "to be assumed by the new company and," and the word "debentures" are stricken out and, at the end of the sentence, the words "debtor's notes" are to be inserted so that the sentence will read: "Standard's claim to the extent of \$3,500,000 was to stand on a parity with the debtor's notes."

Reported as amended, *ante*, p. 307.

306 U. S.

Decisions Per Curiam, Etc.

No. 567. *PARAMOUNT PICTURES, INC., ET AL. v. LANGER, GOVERNOR, ET AL.*; and

No. 568. *SAME v. STRUTZ, ATTORNEY GENERAL, ET AL.* Appeals from the District Court of the United States for the District of North Dakota. March 27, 1939. *Per Curiam*: The motion to reverse is granted. The judgment of the specially constituted District Court is reversed, without costs to either party in this Court, and the cause is remanded to the specially constituted District Court with directions to dismiss the proceeding on the ground that the cause has become moot, without prejudice to an application by either party to the specially constituted District Court for an award of costs in that court. *United States v. Hamburg-American Co.*, 239 U. S. 466, 477-478; *Heitmuller v. Stokes*, 256 U. S. 359, 362-363; *Brownlow v. Schwartz*, 261 U. S. 216, 218. *Mr. Thomas D. Thacher* for appellants. *Mr. Abram F. Myers* for appellees. Reported below: 23 F. Supp. 890.

No. 586. *GRIFFIN v. APPELLATE DIVISION OF THE SUPREME COURT OF NEW YORK, FIRST JUDICIAL DEPARTMENT, ET AL.* Appeal from the Supreme Court of New York. March 27, 1939. *Per Curiam*: Since it appears that at the time the appeal was allowed the judgment of the court below was not final, *Chicago G. W. R. Co. v. Basham*, 249 U. S. 164, 166-167; *Citizens Bank v. Opperman*, 249 U. S. 448, 450; *Ohio Public Service Co. v. Fritz*, 274 U. S. 12, 13, the motion to dismiss is granted and the appeal is dismissed for want of jurisdiction. *Mr. Reynolds Robertson* for appellant. *William H. Griffin, pro se.* *Mr. Einar Chrystie* for appellees. Reported below: 253 App. Div. 288; 2 N. Y. S. 2d 36; 15 N. E. 2d 439.

No. —. *HARRIS v. NATIONAL MEDIATION BOARD.* March 27, 1939. Application denied.

No. 294. *TEXARKANA v. ARKANSAS LOUISIANA GAS CO.* March 27, 1939. The motion of petitioner to amend the decree herein of February 6, 1939, is granted.

Said decree is amended by adding at the end thereof the following paragraph, to wit:

"It is further ordered that the decree of the United States District Court for the Eastern District of Texas, filed herein on July 31, 1937, be reversed in so far as it held that Section IX of the franchise was not applicable to the period prior to December 1, 1933."

No. 391. *UNITED STATES v. JACOBS, EXECUTRIX.* March 27, 1939. The motion to set aside the judgment is denied. *Ante*, p. 363.

No. 534. *INGELS, DIRECTOR OF DEPARTMENT OF MOTOR VEHICLES, ET AL. v. PAUL GRAY, INC., ET AL.* March 27, 1939. Frank W. Clark, present Director of the Department of Motor Vehicles of California substituted as a party appellant in the place and stead of Ray Ingels, resigned, on motion of *Mr. Everett W. Mattoon* for the appellees.

No. 688. *BEARD v. SANFORD, WARDEN.* March 28, 1939. Order denying petition for certiorari (*post*, p. 655.) withheld, conditioned on the filing of a petition for rehearing within ten days, on motion of *Mr. James F. Laughlin* for the petitioner.

No. —, original. *EX PARTE PETER J. C. DONNELLY.* April 3, 1939. Application denied.

No. 528. *UTAH FUEL CO. ET AL. v. NATIONAL BITUMINOUS COAL COMM'N ET AL.* April 3, 1939. It is

ordered that the decree entered in this case on January 30, 1939, be amended by striking out the third paragraph and substituting the following:

“On consideration whereof, It is ordered, adjudged, and decreed by this Court that the decree of the said Court of Appeals affirming the decree of the District Court of the United States for the District of Columbia dismissing the bill be, and the same is hereby, affirmed upon the grounds stated in the opinion of this Court.”

It is further ordered that the mandate in this case be recalled and amended in accordance with this order.

No. 694. *GABRIELLI v. KNICKERBOCKER ET AL.* Appeal from the Supreme Court of California. April 17, 1939. *Per Curiam*: Motion of the appellees to dismiss the appeal herein granted, and the appeal is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for a writ of certiorari, as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Messrs. Olin R. Moyle and R. W. Henderson* for appellant. *Mr. Horace B. Wulff* for appellees. Reported below: 12 Cal. 2d 85; 82 P. 2d 391.

No. 813. *JOHNSON ET AL. v. DEERFIELD ET AL.* Appeal from the District Court of the United States for the District of Massachusetts. April 17, 1939. *Per Curiam*: The judgment is affirmed. *Leoles v. Landers*, 302 U. S. 656; *Hering v. State Board of Education*, 303 U. S. 624; *Hamilton v. The Regents*, 293 U. S. 245, 261-262. *Messrs. Olin R. Moyle and William G. Fennell* for appellants. No appearance for appellees. Reported below: 25 F. Supp. 918.

No. 516. *GOINS v. UNITED STATES*. On writ of certiorari, *post*, p. 623, to the Circuit Court of Appeals for the Fourth Circuit. Argued March 9, 10, 1939. Decided April 17, 1939. *Per Curiam*: As it appears on hearing argument that the District Court's failure to give Instruction B could not have prejudiced the petitioner, the writ of certiorari is dismissed. *Mr. S. H. Sutherland* for petitioner. *Mr. William W. Barron*, with whom *Solicitor General Jackson*, *Assistant Attorney General McMahon*, and *Messrs. George F. Kneip*, *Fred E. Strine*, and *W. Marvin Smith* were on the brief, for the United States. Reported below: 99 F. 2d 147.

No. 367. *EICHHOLZ v. PUBLIC SERVICE COMM'N OF MISSOURI ET AL.* April 17, 1939. The last sentence of the opinion is modified to read as follows:

"The decree of the District Court so far as it denies an injunction is affirmed."

The petition for rehearing is denied.

Reported as amended, *ante*, p. 268.

DECISIONS GRANTING CERTIORARI, FROM JANUARY 17, 1939, THROUGH APRIL 17, 1939.

No. 498. *BONET, TREASURER OF PUERTO RICO, v. YABUCOA SUGAR Co.* January 30, 1939. Petition for writ of certiorari to the Circuit Court of Appeals for the First Circuit granted. *Messrs. William Cattron Rigby* and *Nathan R. Margold* for petitioner. *Mr. Earle T. Fidler* for respondent. Reported below: 98 F. 2d 398.

No. 541. *CARRIER ET AL. v. BRYANT*. January 30, 1939. Petition for writ of certiorari to the Supreme Court of North Carolina granted. *Mr. John W. Wood* for peti-